

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF TEXAS

KIMBERLY KJESSLER, KLAIRE  
RUECKERT, LAURA BRALEY, TIMOTHY  
HAYDEN and SUMMER LANG, individually  
and on behalf of all others similarly situated,

*Plaintiffs,*

v.

ZAAPPAAZ, INC., AZIM MAKANOJIYA,  
NETBRANDS MEDIA CORP., MASHNOON  
AHMED, GENNEX MEDIA, LLC,  
BRANDECO, L.L.C., AKIL KURJI, CUSTOM  
WRISTBANDS INC., and CHRISTOPHER  
ANGELES,

*Defendants.*

Civil Action No. 4:18-cv-0430  
(Consolidated)

**DECLARATION OF CHRISTOPHER FIRST IN SUPPORT OF  
MOTION FOR AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES**

I, Christopher M. First, declare as follows:

1. I am a partner at Heim Payne & Chorush LLP. I submit this declaration in support of Plaintiff's motion for an award of attorneys' fees and expenses in connection with the services rendered, and costs and expenses incurred, in the above-captioned action (the "Action").
2. My firm served as Plaintiffs' Counsel in the Action.
3. The schedule attached as Exhibit 1 sets forth my firm's total hours and lodestar, computed at historical rates, for the period of inception of the case through and including today's date. The total number of hours spent by my firm during this period was 44.25, with a corresponding total lodestar (at historical rates) of \$17,847.25. This schedule was prepared from contemporaneous daily time records prepared and maintained by my firm. In connection with

representing the Plaintiffs in the Action, my firm did the following: coordinating, drafting, and filing the initial complaints and related administrative filings and requirements; preparing and filing a motion for appointment of lead counsel; preparing and filing scheduling-related motions; consulting with co-counsel regarding local rules and strategy; preparing for and attending a hearing regarding appointment of class counsel. The lodestar amount reflected in Exhibit 1 is for work performed by attorneys and professional staff at or affiliated with my firm for the benefit of the Class. The hourly rates for the attorneys and professional staff in my firm reflected in Exhibit 1 are the usual and customary hourly rates historically charged by my firm in similar complex litigation matters.

4. My firm has expended a total of \$452.54 in unreimbursed costs and expenses in connection with the prosecution of the Action from inception of the case through and including today's date. These costs are set forth in the Schedule attached as Exhibit 1 and are reflected in the books and records of my firm. They were incurred on behalf of Plaintiffs by my firm.

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

By: /s/ Christopher M. First

Christopher M. First  
TX Bar No. 24095112  
[cfirst@hpcllp.com](mailto:cfirst@hpcllp.com)

Heim, Payne & Chorush LLP  
1111 Bagby St., Suite 2100  
Houston, TX 77002  
T: (713)221-2000 F: (713)221-2021

# **EXHIBIT 1**

**TO DECLARATION OF CHRISTOPHER FIRST IN SUPPORT OF  
MOTION FOR AWARD OF ATTORNEYS' FEES AND LITIGATION EXPENSES**

# Heim, Payne & Chorush, L.L.P.

1111 Bagby, Suite 2100  
Houston, TX 77002  
(713) 221-2000  
(713) 221-2021  
Tax ID 20-4079456

July 15, 2020

Mr. John Radice  
Radice Law Firm  
34 Sunset Blvd.  
Long Beach, NJ 08008

Invoice Number: 2804  
Client/Matter No: 1110 - 0010

## Invoice Summary

Total fees incurred on this invoice	\$17,847.25	
Total expenses incurred on this invoice	\$452.54	
Net current charges		\$18,299.79
BALANCE DUE		<u>\$18,299.79</u>

## Invoice Detail

1110-0010

Local Counsel Re:

Laura Braley, on behalf of herself and all other similarly situated, Plaintiff v. Mashnoon Ahmed; Christopher Angeles; Brandeco, L.L.C. d/b/a BrandNex.com; Casad Company d/b/a Totally Promotional; Custom Wristbands Inc.; Akil Kurji; Azim Makanojiya; Netbrands Media Corp. and Zaappaaz, Inc., Defendants; In the United States District Court for the Southern District of Texas

## Professional services

10 11 2017	MYJ	Correspondence; review complaint; conference with J. Radice.	1.50	550.00	825.00
10 12 2017	CJA	Assist with preparation and filing of complaint, civil cover sheet and summonses; set up electronic files.	3.00	200.00	600.00
10 12 2017	MYJ	Review and revise civil cover sheet; discuss summons with A. Branum and C. Anderson; review final complaint.	1.50	550.00	825.00
10 13 2017	CJA	Make edits to summonses to defendants; update electronic pleading files; calendar dates from the Court's Order for Conference.	0.50	200.00	100.00
10 13 2017	MYJ	Review order; correspondence.	0.50	550.00	275.00
10 15 2017	MYJ	Review MDL filings; review MDL rules; correspondence.	1.50	550.00	825.00

CUSTOMIZED PROMOTIONAL PRODUCT					Page	2
1110	-	0010				
10 17 2017	CJA	Register attorney for CM/ECF notices; download electronic pleading files.	0.30	200.00	60.00	
10 18 2017	CJA	File and serve Certificate of Interested Parties; update electronic pleading files.	0.20	200.00	40.00	
10 18 2017	MYJ	Review and revise certificate of interested parties; coordinate filing.	0.75	550.00	412.50	
10 27 2017	CJA	Update electronic pleading files.	0.30	200.00	60.00	
10 30 2017	CJA	Update electronic pleading files.	0.10	200.00	20.00	
11 07 2017	CJA	Update electronic pleading files.	0.10	200.00	20.00	
11 13 2017	CJA	File motion for attorney's pro hac vice admission; update electronic pleading files.	0.20	200.00	40.00	
11 16 2017	MYJ	Review and revise draft motion to appoint lead counsel and related filings.	3.00	550.00	1,650.00	
11 20 2017	ALA	Assisted attorney with search for go-bys for Motion for Appoint of Lead Counsel in the Southern District.	1.00	165.00	165.00	
11 20 2017	ALA	Assisted attorney with filing Motion for Lead Counsel.	0.25	165.00	41.25	
11 20 2017	MYJ	Review, revise and prepare for filing Braley's Motion to Designate a Lead Case, to Consolidate Later-filed cases, and to Appoint Interim Lead and Liason Counsel.	1.75	550.00	962.50	
11 21 2017	MYJ	Correspondence regarding summons and service; review Texas RCP 106 and related rules regarding service.	1.00	550.00	550.00	
11 29 2017	CJA	Update electronic pleading files.	0.25	200.00	50.00	
12 07 2017	CJA	Update electronic pleading files.	0.10	200.00	20.00	
12 14 2017	MYJ	Revise response to motion to intervene.	2.00	550.00	1,100.00	
12 15 2017	CJA	Update electronic pleading files; calendar hearing date.	0.10	200.00	20.00	
12 18 2017	CJA	Update electronic pleading files; file response to motion for limited intervention.	0.30	200.00	60.00	
12 18 2017	MYJ	Review response to motion to intervene and coordinate filing.	1.00	550.00	550.00	
12 28 2017	CJA	Update electronic pleading files.	0.10	200.00	20.00	
01 08 2018	CJA	Update electronic pleading files.	0.30	250.00	75.00	
01 09 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00	
01 10 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00	
02 01 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00	
02 13 2018	CJA	Update electronic pleadings files.	0.10	250.00	25.00	

## CUSTOMIZED PROMOTIONAL PRODUCT

Page

3

1110 - 0010

02 22 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
03 01 2018	CJA	Update electronic pleading files.	0.20	250.00	50.00
03 01 2018	MYJ	Review motion to postpone the initial conference and exhibit; correspondence.	0.25	615.00	153.75
03 05 2018	CJA	Update electronic pleading files.	0.20	250.00	50.00
03 05 2018	MYJ	Call Judge Stacy's case manager to discuss motion to postpone; correspondence.	0.25	615.00	153.75
03 06 2018	MYJ	Prepare for and attend initial conference proceeding; correspondence.	2.00	615.00	1,230.00
03 12 2018	CJA	Update electronic pleading files; calendar reset initial conference date.	0.20	250.00	50.00
05 02 2018	MYJ	Attend conference call; correspondence with J. Radice.	0.50	615.00	307.50
05 07 2018	CJA	Update electronic pleading files.	0.20	250.00	50.00
05 10 2018	CJA	Update electronic pleading files.	0.20	250.00	50.00
05 14 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
05 25 2018	CJA	Update electronic pleading files.	0.20	250.00	50.00
06 01 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
08 06 2018	MYJ	Correspondence regarding hearing.	0.50	615.00	307.50
08 06 2018	CMF	R/r correspondence re: upcoming hearing.	1.00	425.00	425.00
08 08 2018	CMF	Call with J. Radice; review documents as requested.	1.75	425.00	743.75
08 09 2018	CJA	Update electronic pleading files.	0.30	250.00	75.00
08 09 2018	ETO	File Pro Hac Vice application for C. First.	0.50	195.00	97.50
08 13 2018	CMF	Prepare PHV and appearance forms.	0.75	425.00	318.75
08 14 2018	ETO	Prepare hearing notebook for C. First.	0.50	195.00	97.50
08 14 2018	CMF	Review filings in preparation for 8/15 hearing.	2.25	425.00	956.25
08 15 2018	ETO	Prepare ECF registration form and submit for C. First.	0.50	195.00	97.50
08 15 2018	CMF	Attend hearing re: appointment of class counsel and prepare correspondence re: same.	3.75	425.00	1,593.75
08 16 2018	CJA	Update electronic pleading files; calendar court ordered deadlines.	0.30	250.00	75.00
08 17 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
08 20 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
08 27 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00

## CUSTOMIZED PROMOTIONAL PRODUCT

Page

4

1110 - 0010

08 31 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
09 19 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
09 19 2018	CJA	Update electronic IPR files and deadlines/due dates tracker.	0.25	250.00	62.50
09 20 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
10 02 2018	CJA	Update electronic pleading files.	0.30	250.00	75.00
10 05 2018	CJA	Update electronic pleading files; calendar Scheduling Order No. 2 due dates.	0.25	250.00	62.50
10 10 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
11 08 2018	CJA	Update electronic pleading files.	0.10	250.00	25.00
11 18 2018	CJA	Update electronic pleading files.	0.20	250.00	50.00
11 30 2018	CJA	Update electronic pleading files.	0.25	250.00	62.50
02 04 2019	CJA	Update electronic pleading files.	0.25	250.00	62.50
02 11 2019	CJA	Update electronic pleading files.	0.10	250.00	25.00
04 16 2019	CJA	Update electronic pleading files.	0.10	250.00	25.00
04 24 2019	CJA	Update electronic pleading files; calendar status conference date.	0.20	250.00	50.00
05 08 2019	CJA	Update electronic pleading files.	0.25	250.00	62.50
05 15 2019	CJA	Update electronic pleading files; calendar due date for proposed docket control order and protective order.	0.10	250.00	25.00
06 20 2019	CJA	Revise Motion for Withdrawal as Counsel regarding M. Jones; update electronic pleading files.	0.50	250.00	125.00
08 08 2019	CJA	Update electronic pleading files.	0.10	250.00	25.00
01 14 2020	CJA	Update electronic pleading files.	0.10	250.00	25.00
01 16 2020	CJA	Update electronic pleading files.	0.20	250.00	50.00
03 09 2020	AAM	Communicate with C. First regarding docketing and distribution.	0.10	250.00	25.00
03 11 2020	KNW	Docket report administrative duties.	0.10	185.00	18.50
04 02 2020	KNW	Docket report administrative duties.	0.10	185.00	18.50
04 15 2020	KNW	Docket report administrative duties.	0.30	185.00	55.50
04 16 2020	KNW	Docket report administrative duties.	0.10	185.00	18.50
05 19 2020	AAM	Communicate with C. First regarding case status; review of order entered setting deadlines; docket deadlines for the the team; download from Pacer recent filings to update the	1.00	250.00	250.00

CUSTOMIZED PROMOTIONAL PRODUCT  
1110 - 0010

Page 5

electronic file.

Summary by Timekeeper:

AAM	McGinnis, Angie A.	1.10	hours at	\$250.00	per hour	275.00
ALA	Branum, Amber L.	1.25	hours at	\$165.00	per hour	206.25
CJA	Anderson, Carrie J.	12.30	hours at	\$227.44	per hour	2,797.50
CMF	First, Chris M.	9.50	hours at	\$425.00	per hour	4,037.50
ETO	Torres, Ericka	1.50	hours at	\$195.00	per hour	292.50
KNW	Webb, Kendall N.	0.60	hours at	\$185.00	per hour	111.00
MYJ	Jones, Miranda Y.	18.00	hours at	\$562.64	per hour	10,127.50
Total Professional Services:						17,847.25

## Disbursements

10 31 2017	ZCRT	Court Costs - SOS Searches and Filing Fees USDC, SDTX	405.14
01 08 2018	ZOC	Pacer Invoice 3047854 Q2017: Retrieval of Court Documents.	17.20
04 30 2018	ZOC	Pacer Service Center - Court Document Retrieval for Q1/2018	8.80
07 20 2018	ZOC	PACER Invoice 3047854 - Q2 April 2018 - June 2018	1.30
10 17 2018	ZOC	PACER - Court Document Retreiver for Q3 - 2018	6.20
04 30 2019	ZOC	PACER Service Center - Court Document Retrieval Service Q1 Invoice	3.00
07 22 2019	ZOC	Pacer 2019 Q2 Invoice Retrieval of Court Documents.	8.20
10 14 2019	ZOC	PACER 2019 Q3 Invoice - Court Document Retrieval Services.	2.70
Total Disbursements:			\$452.54